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Friday, August 26, 2016

The Hon. William H. Pauley, III
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007-1312

VIA ECF

re: *White v. Lawyer.com, LLC et al.*, 16-cv-6617 (WHP)
Letter Requesting Amendment of Complaint Caption

Dear Judge Pauley,

I write as counsel to and the putative class. I write to ask leave of Court to file an amended complaint in the above titled action, to change the complaint caption as requested by the clerk, without using the amendment as a matter of course under the Federal Rules of Civil Procedure (“FRCP”).

In the caption to our initial pleading, we identified the party as follows: “Alex R. White, et al. Individually And On Behalf of All Others Similarly Situated, Plaintiff.” The case is filed on behalf of one individual, Mr. White, and a putative class.

The case opening clerk read the “et al.” as indicating others not named rather than indicating a putative class. As the result, Plaintiff’s counsel received Tuesday, via ECF, a notice of filing deficiency from the Clerk. It read:

Docket Text:

***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING.
Notice to Attorney Paul C. Whalen to RE-FILE re: Document No. [1] Complaint.
The filing is deficient for the following reason(s): all of the parties listed on the

pleading were not entered on CM ECF; The caption title indicates "et al.". Docket the event type Add Party to Pleading found under the event list Complaints and Other Initiating Documents. **Re-file the pleading** using the event type Complaint found under the event list Complaints and Other Initiating Documents - attach the correct signed PDF - select the individually named filer/filers - select the individually named party/parties the pleading is against. (pc)

(emphasis added)

In speaking with the case opening clerk, I was informed that the only way to change the caption is to file an amended complaint. This would obviate Plaintiff's amendment as of right before Defendant's answer under FRCP 15(a)(1). The clerk informed me the best course of action would be to file a letter, asking leave of Court to file an amended complaint for the caption only, which leaves the amendment option under FRCP 15(a)(1) intact. This letter is that request.

I ask leave of Court to file an amended complaint in the above titled action, to change the complaint caption as requested by the clerk, without using the amendment as a matter of course under FRCP 15(a)(1).

Respectfully,

A handwritten signature in blue ink, appearing to read 'P. Whalen', with a long horizontal flourish extending to the right.

Paul C. Whalen